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## **Cross-border police cooperation in tackling environmental crime**

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*Published in:*

9th International Conference on Environmental Compliance and Enforcement

*Publication date:*

2011

*Document Version*

Publisher's PDF, also known as Version of record

[Link to publication in Tilburg University Research Portal](#)

*Citation for published version (APA):*

Spapens, A. C. M. (2011). Cross-border police cooperation in tackling environmental crime. In *9th International Conference on Environmental Compliance and Enforcement* (pp. 1-11). Unknown Publisher.  
[http://www.inece.org/conference/9/papers/Spapens%20Paper\\_Netherlands\\_Final.pdf](http://www.inece.org/conference/9/papers/Spapens%20Paper_Netherlands_Final.pdf)

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# **CROSS-BORDER POLICE COOPERATION IN TACKLING ENVIRONMENTAL CRIME**

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## **SUMMARY**

Criminal investigation of serious and organized cross-border environmental crimes requires effective police cooperation. However, the mounting of coordinated and systematic efforts in this field still proves to be difficult. The first explanation for this is the lack of a globally applicable legal framework for mutual assistance in criminal matters. Another important and often underestimated reason is practical problems regarding the exchange of information about detected cross-border environmental crimes and setting up a coordinated criminal investigation in two or more countries in response, as well as with regard to the execution of requests for mutual legal assistance. Legal scholars often assume that enhancing the legal framework for cross-border police cooperation is the primary solution to the problems experienced. Here, I show that practical considerations are just as important for effective cooperation in cases of transnational environmental crime. A specific problem is the fact that this type of crime regularly involves countries with non-democratic regimes or even a non-existent central government, as well as weak law enforcement, both in terms of capabilities and integrity, and consequently law enforcement agencies in other countries will often be reluctant to seek legal assistance.

## **1 INTRODUCTION**

Environmental crime is in many ways a cross-border crime. To begin with, illegal activities may be transnational in their effect, such as the pollution of air and water. Secondly, the ‘business process’ of environmental criminal acts may be international in scope, such as the trafficking of hazardous waste from an industrialized nation to a Third World country. Another example is the misuse of differences in environmental laws between countries. An amount of soil coming from a contaminated building site may be considered polluted in one country, whereas it is considered clean in another, for example. A company hired to clean up the site may therefore decide to simply export the polluted soil illegally, thereby avoiding a costly cleaning operation, and to re-import it for further use once its designation has been changed. Thirdly, the persons, or the members of the crime group responsible for the illegal activity may be operating in two or more countries. An example is a captain of a ship who continuously decides to dump waste, such as bilge water, instead of offering it to a specialized harbour facility for processing. Finally, cross-border environmental crime may even take place in cyberspace, for example by committing fraud in emission trading schemes. In each of these cases, cross-border police cooperation may be necessary to tackle the problem.

When talking to police practitioners, one can often hear the complaint that international law enforcement cooperation is in many respects “not working.” Of course, detectives can often also produce case examples in which they did cooperate successfully with foreign counterparts (Fijnaut *et al.*, 2005; Spapens, 2008, 2009). This is not surprising, because in practice cross-border law enforcement cooperation comprises many aspects, each

involving different actions and parties, which result in specific problems. In this paper, I analyze three aspects of operational transnational police cooperation in criminal investigation: the detection of cross-border environmental crime, the setting up of a coordinated investigation, and the gathering of evidence.

The scope of this paper is limited in four respects. Firstly, it will address only criminal investigation, and therefore leave aside cooperation problems in cases that are dealt with by administrative and other competent public authorities. Secondly, the paper focuses mainly on *operational* police cooperation. Consequently, it will not substantially address non-operational police cooperation (e.g. joint training, exchange of good practices) and judicial cooperation (e.g. extradition, transfer of proceedings, taking the suspects to court). Thirdly, the paper is limited to those types of cross-border environmental crimes involving trafficking operations, particularly the illegal export of (hazardous) waste and crimes relating to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Fourthly, I will address only the investigation of cases of cross-border serious and organized crime, and therefore leave aside cross-border cooperation in providing assistance to the public and in public order policing.<sup>1</sup>

This paper is structured as follows. Section 2 first outlines the legal and organizational framework for transnational police cooperation. Then sections 3 through 5 address the three different aspects of operational police cooperation mentioned above. Section 6 concludes the paper.

## **2 THE LEGAL FRAMEWORK FOR POLICE COOPERATION**

In cross-border police cooperation in criminal investigation, sovereignty of the countries involved is the leading principle (Michalowski & Bitten, 2005). Consequently, a well-defined legal framework for mutual legal assistance in criminal matters consisting of a patchwork of multilateral and bilateral treaties guides any operational action.<sup>2</sup> The term ‘police cooperation’ is in a sense misleading, because the police on many occasions need the consent of the competent judicial authorities before it can ask for or provide mutual legal assistance. Which institution is competent depends on the type of assistance required and the country involved. Within the European Union (EU), the Schengen Implementation Convention (1991) allows the police to exchange written information already in their possession on its own authority.<sup>3</sup> This use of this so-called “police-police” information is restricted to investigative purposes and cannot be used before the court without the consent of the competent judicial authorities. In any case, application of a special investigative method, for instance a request for wiretapping based on the Convention on Mutual Assistance in Criminal Matters between the Member States of the EU (2000), would require the consent of the public prosecution service or an investigative magistrate, for example.<sup>4</sup>

If a non-EU Member State makes the request, a decision on the exchange of even the simplest piece of “police-police” information may fall to the national authorities, such as the Ministry of Justice, unless specific conventions apply. The Netherlands, for instance, has signed bilateral treaties on mutual legal assistance with a variety of countries, such as the United States, Australia and Surinam (Spapens, 2010b). A basic level of trust in each other’s legal system is of course a prerequisite for such treaties.

Conventions on mutual legal assistance in criminal matters contain general provisions on how and under what conditions the competent authorities will provide assistance, on the one hand, and articles on specific investigative methods on the other. The European Convention on Mutual Assistance in Criminal Matters, drawn up in the context of the Council of Europe (COE) in 1959, contains for example provisions for the exchange of rogatory letters in general, and allows for the request of interrogation of suspects, the searching of premises, the exchange of criminal records and the hearing of witnesses and experts in particular.<sup>5</sup> Many other treaties follow these basic provisions.

If a convention on mutual legal assistance in criminal matters or a provision allowing for a specific action is lacking, however, operational police cooperation is not impossible. In such cases, national authorities may decide bilaterally upon the actions needed (Spapens, 2009). Of course, agreeing upon such case-by-case arrangements will take more time.

The main instrument for providing mutual legal assistance is what is termed a rogatory letter, or request for mutual legal assistance. Such a request must usually be submitted in writing and must explain the nature of the criminal investigation, the identity of the suspects (if these are known) and their involvement in the illegal activities, the assistance required, as well as the relevant articles of the penal law applicable to the crimes under investigation. A requested party may refuse to comply with the request for a number of different reasons (Joutsen, 2005). An important aspect is that the crimes must be punishable by law in both the requesting and the requested country, although there are sometimes exceptions to this rule. Another noteworthy element is the fact that the competent authorities may also deny assistance when they consider the other party's integrity to be insufficient. An example may be that the regime is non-democratic. This ground for refusal is particularly relevant in cases of cross-border environmental crime, because the illegal activities often involve countries with regimes of questionable integrity or with weak regulatory and enforcement systems (Elliot, 2009; White, 2010).

Because conventions on mutual legal assistance in criminal matters depend on a basic level of trust in legal systems, it comes as no surprise that few of these are both comprehensive on a global scale and applicable to cases of environmental crime. The only real exception is the United Nations Convention against Transnational Organized Crime (2000), now signed by 147 countries.<sup>6</sup> Two other examples of multilateral treaties signed by a relatively large number of nations are the aforementioned 1959 Convention, and the Commonwealth Scheme for Mutual Assistance in Criminal Matters (or Harare Scheme), including 48 and 53 states, respectively.<sup>7</sup>

These three conventions contain comparable provisions for mutual legal assistance. The major difference between the UN Convention and the other two, however, is the fact that the first applies only to serious and transnational crimes, involving a criminal group. The UN defines serious crime as a conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty. An organized criminal group is defined as "a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this convention, in order to obtain, directly or indirectly, a financial or other material benefit." Understandably, these requirements limit applicability of

the UN Convention to cases of environmental crime, particularly because the penalties imposed on those crimes are often minimal (Elliot, 2009, p. 75).

Consequently, investigative authorities are often required to fall back on bilateral treaties on mutual assistance in criminal matters and, if these are unavailable, on case-by-case arrangements. The advantage of the latter type of agreements is that two states may bilaterally agree upon any type of police action as long as it is not in violation of meta-conventions such as the European Convention on Human Rights. The main downside of the latter type of agreements is that the decision-making process is usually slow and the outcomes may differ in otherwise largely comparable situations.

Finally, it should be noted that an organizational framework for cross-border police cooperation, for the exchange of rogatory letters and for the coordination of investigative actions, is in place. INTERPOL, with now 188 Member States worldwide, is one institution and the most well known. The modern INTERPOL was re-built in 1946 after World War II, and one of its important tasks is maintaining a network of national bureaus for the secure exchange of information on a 24/7 basis.<sup>8</sup> In addition, INTERPOL provides data services, maintains databases of police information and offers operational support to national and international investigations through its specialized crime units and 24/7 command and coordination centre. However, contrary to what the public may think, INTERPOL itself has no operational investigative powers.

Now that I have outlined the basic framework for police cooperation, I will turn to practical cooperation in cross-border criminal investigation cases. The first requirement for police cooperation that will be addressed is the detection of transnational environmental crime, followed by the exchange of information and intelligence with one or more of the other countries in which the criminal business process takes place.

### **3 DETECTION OF CROSS-BORDER ENVIRONMENTAL CRIME**

Obviously, a case of cross-border environmental crime involves illegal activities in more than one country. It is, however, less obvious that law enforcement officials who detect such an illegal activity immediately share it with their counterparts in countries for which it is also relevant. In this section, I will first outline the principal lines by which the police acquire information about cross-border serious and organized crime. Next, I will turn to the question of how and when such information may be shared with the competent authorities of a foreign country.

In general, the police will detect transnational environmental crime either reactively or proactively. The first implies that the police spontaneously receive a report of a crime. A civilian may report the discovery of a dumping site of hazardous waste, for example. Another government agency, such as the Customs, may also detect an environmental crime, following a scheduled control for example, and then inform the police. In a case of transnational environmental crime, the police of country A may start a criminal investigation and then seek assistance of the police in country B. It is, of course, also possible that the police share information about ongoing cross-border environmental crime with foreign counterparts beforehand, in order to mount a coordinated investigation from the start.

Next, the police may detect crimes proactively. In such cases, the police actively seek information about environmental crime for the purpose of starting an investigation. Firstly, the police – often together with other government bodies – may gather information by means of controls, for example of commercial vehicles, trains and ships transporting waste to a

destination abroad. The legal framework on police cooperation in the European Union also allows for joint controls by police officers of two or more Member States. A second option is to use informers in criminal circles who can provide intelligence about ongoing crimes and the persons involved. Another approach is to systematically bring together and analyze information on a specific problem already possessed by enforcement agencies.<sup>9</sup> Systematic analysis of companies in a particular sector, such as asbestos disposal, may also render enough suspicions of criminal activities to justify further investigation.

In most cases, an enforcement agency of one country will be the first to detect a case of cross-border environmental crime. The focal question therefore is how the authorities of other jurisdictions to which the illegal activities are relevant are to receive the necessary information.

Firstly, the police of the country in which the illegal activities are first detected may start a criminal investigation during which legal assistance is sought from one or more of the other countries involved. A rogatory letter or a “police-police” message informs the authorities and requests specific investigative actions that may render additional information. The authorities may also use the information as a starting point for their own more comprehensive investigation, or use it as part of a broader analysis. In practice, this is the most common trajectory through which foreign authorities receive notice about a cross-border illegal activity yet undetected by themselves.

The next option, however, is that the police of the country in which the case of environmental crime is first detected will start an investigation, but limit it to the crimes committed within their own national jurisdiction. In such cases, foreign authorities may not be informed at all, or only after completion of the case. Particularly in trafficking operations, the illegal activity is usually ‘glocal.’ A criminal group in one country produces the goods, for example, and transports these to another country where another group sells the shipment in smaller parts, or takes care of further working up. Apart from contacts between a few key persons who negotiate the deal, there are usually few links between the persons involved. A good example of a glocal operation is a case of trafficking of e-waste from the Netherlands to Ghana, the Czech Republic and Ukraine (Mostert *et al.*, 2010).

By concentrating on the illegal activities close to home, the investigative authorities reduce the risk of premature leaks, particularly if they question the integrity of the regime and the law enforcement agencies of the other countries involved. Moreover, the police and the judiciary also avoid the complications that may follow from asking for mutual legal assistance, such as the extra work involved in writing rogatory letters, and the costs of travelling abroad to confer with foreign officials.

Finally, the competent authorities of the country that first detects the case may decide not to mount an investigation. One reason may be that the level of suspicion required by the Code of Criminal Procedure is insufficient to commence proceedings. Another may be that limited resources of personnel and equipment are required for the investigation of other more pressing crime problems. Within the EU, for example, the legal framework would allow for informing another Member State.<sup>10</sup> In practice, however, this is still far from common, even in border areas where serious and organized crime is highly interwoven across the area (Spapens, 2008). One of the problems is that detectives do not know to which agency they should send the information, and do not have (or take) the time to enquire. Another problem is that the sharing of this type of yet uncorroborated knowledge, particularly if it concerns

intelligence provided by criminal informers, requires a high level of trust in the integrity and the working methods of foreign counterparts. Usually, law enforcement officials will choose a better safe than sorry approach towards the risk of leaks. In practice therefore, the exchange of this type of information largely depends on previous cross-border investigation cases in which cooperation was successful and on the personal relations developed on those occasions. One example is a case in which a Spanish-speaking Dutch police officer was sent to Spain to act as a liaison in a cross-border investigation. During his posting, he developed close personal relations with his Spanish colleagues who kept notifying him of any information they came across that might be relevant for the Netherlands (Spapens, 2006).

From the above, however, it is clear that the active and systematic sharing of information about cross-border organized crime is still haphazard at best. An international criminal investigation is seldom set up as a coordinated effort from the beginning. Instead, relevant information is often not exchanged at all, or exchanged too late to put it to good use immediately. These problems are a huge frustration to law enforcement officials and largely explain their criticism of the quality of operational police cooperation.

Recent international operations initiated and coordinated by the INTERPOL Environmental Crime Programme, identified areas where future operations may be improved. Recommendations focus on greater participation in future operations, more frequent use of modern operational means of communication, the need of coordinated national operational plans, more uniformed standards of reporting, enhanced intelligence exchange including the efficient use of secure systems and official portals and the expansion of international analysis capacity (INTERPOL 2011a and 2011b).

#### **4 SETTING UP A CROSS-BORDER CRIMINAL INVESTIGATION**

The next phase in operational police cooperation is to make available the personnel and equipment needed to comply with a request, if it is deemed admissible. A rogatory letter may range from a relatively simple request for a particular investigative action or a piece of information, to a request for mounting a comprehensive investigation in a coordinated effort. Especially the latter may lead to intense discussion, often before any official requests for mutual legal assistance have been exchanged (Fijnaut, *et al.*, 2005).

In practice, relatively simple requests for mutual legal assistance comprise the bulk of all rogatory letters (Fijnaut *et al.*, 2005, Van Daele *et al.*, 2008). Even in large-scale criminal investigation cases, the assistance asked of the foreign police will usually be limited to specific actions. An evaluation of requests for mutual legal assistance received in 2001 in two districts of the public prosecution service in the Netherlands, revealed that most of the rogatory letters concerned interrogation of a suspect (31%), the hearing of a witness (12%), identification of a person's whereabouts (14%) and the identification of a telephone number (6%) (Fijnaut *et al.*, 2005, p. 110). In such cases, one or more police officers will be charged with executing the request as a part of their daily routine and therefore requires no specific effort.

However, requests for mutual legal assistance may also be complicated and require further investigation by a team of detectives operating in close cooperation with their foreign counterparts over a considerable period (Spapens, 2009). In such cases, single actions will often not suffice and a team of detectives will need to conduct a proper investigation. The aforementioned study showed that 3% of the rogatory letters received asked for a more thorough investigation and the application of different investigative methods (Fijnaut *et al.*, 2005, p. 111). In such cases, practical difficulties occur more often.

To begin with, resources for criminal investigations are scarce, and usually all available personnel are already tied up in ongoing cases. It is therefore not easy to start an investigation at the same time in two or more countries. More importantly, scarcity of personnel and equipment implies that investigative priorities need to be set and every sovereign country follows its own policy in this respect. Consequently, policy makers in one country may consider a specific type of environmental crime a high investigative priority, whereas their counterparts in another state may see it as a less pressing problem. These counterparts will therefore be less inclined to commit resources to an investigation. Studies of police cooperation in the Dutch-Belgian-German border area, for example, revealed that differences in investigative priorities are usually the main explanation why coordinated investigations will not materialize (Spapens, 2008, 2009). Belgium and the Netherlands both apply the principle of opportunity, for example, but set different priorities for criminal investigation. Property crime is a high priority in Belgium for instance, because the country has a specific problem with Eastern European itinerant gangs, whereas in the Netherlands it is not. In Germany, the principle of legality applies, which obliges the police to investigate any crime brought to its attention. Therefore, the German police have less room for manoeuvre whenever information about a crime is received reactively (Van Daele & Van Geebergen, 2007).

Clearly, if it is already difficult to coordinate investigative efforts even in a densely populated border area of three EU Member States, such problems multiply when social and cultural distances increase. If the Dutch police and judicial authorities intend to start an investigation on the import of illegally logged wood, for example, it will be extremely difficult to coordinate the effort from the start with the investigative authorities in the distant countries where the harvesting takes place. Which authorities are competent? Can they be trusted? Will they participate in a coordinated investigation? Do they have the personnel and equipment available needed to investigate the case effectively?

## **5 GATHERING EVIDENCE**

If a relevant convention on mutual assistance in criminal matters applies, the request meets the conditions set, and the competent authorities have successfully settled discussion about mounting an investigation with regard to a specific crime group or illegal activity, practical work can begin in order to obtain the necessary evidence.

As I have described in the previous section, one or more police officers will usually deal with the task of executing a simple request for mutual legal assistance. An example is a Belgian request to the Netherlands for the interrogation of a Dutch suspect who delivered a ship to a Belgian shipyard for demolition, without mentioning that it had still about a hundred tons of waste oil and bilge water onboard. Another example is a request for further information about the owner of a Dutch car that the police found dumped in a German canal. Of course, trained police officers will have no problem conducting an interrogation and to draw up a verbatim report containing the necessary information for their foreign counterparts, for example. Yet, practical problems may still prevent swift compliance.

Police officers often see requests for mutual legal assistance as extra work and therefore give their execution a relatively low priority. Sometimes it may take months for police officers to find the time, particularly if they have little affinity with the topic of the investigation, or assume that the required action is not very realistic or will not render additional information.



In addition, rogatory letters are not always clear about the exact information the foreign authorities need for their investigation. In the end, their report may therefore be incomplete, and the requesting party may have to file an additional rogatory letter. Furthermore, some legal systems set specific requirements for verbatim reports or evidence obtained, which may differ from those familiar to the police officers in the requested country. An option for the requesting state is to ask permission for their detectives to be present during the interrogation of the suspect or the searching of premises. Although police officers are usually not allowed to perform executive actions on foreign territory themselves, they can of course help their colleagues in asking the right questions and seizing the objects relevant to their investigation, as well as ensuring that all evidence is collected to meet the Code of Criminal Procedure of their country. However, such visits are costly in terms of time and money, especially when the request refers to a distant country, and are therefore not standard.

Finally, even simple requests for mutual legal assistance may require a complex and time-consuming administrative path. In the case of the Netherlands, for example, a rogatory letter requiring investigative action must first be sent to the public prosecution service. There, specialists judge whether the request meets the requirements. If the request originates from outside the EU, or concerns actions that do not fall within the legal framework of the conventions to which the Netherlands is party, assessment falls to the Ministry of Justice. If the request is admissible, the public prosecution service will forward it to a suitable police department for execution. If a suspect needs to be interrogated, the request will be sent on to the district where this person is residing, for example. A case of cross-border environmental crime will usually be forwarded to one of the specialist regional teams responsible for the investigation of these types of crime, or to one of the specialized enforcement agencies such as the investigation squad of the Ministry of Housing, Spatial Planning and the Environment. After the police have obtained the necessary information or evidence, the public prosecution service will once again check if it may be transferred to the requesting foreign party. The Code of Criminal Procedure may also enable the suspects involved to appeal. In the Netherlands, for example, objects seized by the police could not until recently be transferred abroad before an appeal had been dealt with by a court, a procedure that usually took months (Fijnaut *et al.*, 2005).

In complex cases, the competent authorities may decide to have a team of detectives formed to investigate the illegal activities taking place within their own national jurisdiction. Usually, such a team will coordinate activities with the investigation team operating in the requesting country. Team leaders may for instance meet regularly to exchange information and to discuss tactics. An investigation of cross-border organized crime will usually also involve the application of special investigative methods, such as surveillance, wiretapping or bugging. Successful cooperation often requires intense deliberation and an open attitude from police officers and public prosecutors and investigative magistrates towards the specifics of their respective working methods as well as national rules and regulations. Using civilians to infiltrate criminal groups is quite common in the United States, for example, whereas in the Netherlands, the law allows for this only as a last resort and it requires the personal approval of the Minister of Justice. On the one hand, the US police must therefore accept that it cannot use civilians to infiltrate a criminal group in a case involving the Netherlands. On the other, the Dutch police may be able to apply tactics with which their counterparts are less familiar, such as large-scale wiretapping (Spapens, 2011). In practice, working together in parallel investigations continuously calls for adjustment. An alternative is to set up a joint investigation team made up of detectives from the different countries in which investigative

action is necessary (Spapens, forthcoming). One advantage of such a team is that its members may exchange information directly, which saves time. Another is that one person leads the investigation, so there is less need for continuous adjustment.

Although there are many snags that may frustrate the timely and adequate execution of rogatory letters, or effective cooperation in parallel and joint investigations, practical instead of legal constraints usually account for mishaps. If personal relations between the law enforcement officials at different levels are good, and as long as (organizational) interests converge, legal problems can usually be solved (Spapens, 2008). Network and capacity building are therefore also of huge importance. To this, a wide range of institutions can contribute, not only in the field of policing and customs, but also in the context of the United Nations, CITES, and of (informal) networks such as the International Network for Environmental Compliance and Enforcement (INECE) and the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL).

## **6 CONCLUDING REMARKS**

This paper shows that many difficulties may obstruct cross-border police cooperation in cases of transnational environmental crime. On a global scale, the legal framework for mutual legal assistance in criminal matters is still limited in scope. This is particularly important because the trafficking of waste and endangered species of wild flora and fauna, for example, often involves both industrialized and Third World countries. The latter countries are often not party to the legal framework on mutual assistance in criminal matters, with the exception perhaps of treaties concluded in the context of the UN. Moreover, it may already be difficult to seek cooperation because of a lack of trust. Clearly, there are neither simple solutions to this problem nor quick fixes. To begin with, strengthening mutual trust by enhancing non-operational cooperation could be a fruitful starting point from which to move on to operational cooperation in criminal investigation. Indeed the police in EU border areas followed this same path from the late 1960s onwards. This type of cooperation should not be limited to exchanging best practices and network building at seminars though, but should also include joint training and, whenever possible, building a technical infrastructure for cooperation, for instance to exchange information quickly. INTERPOL already initiated joint training programmes in the field of environmental crime, for example.

Of course, there is also much to gain as regards police cooperation between the industrialized countries. These countries are usually party to conventions on mutual legal assistance in criminal matters. Therefore, further expansion of the legal framework does not seem to be the primary solution to problems in cross-border police cooperation. Instead, we should look for practical measures. Here, at least a more rapid exchange of information in the case of detection of a cross-border environmental crime is of the utmost importance. In such cases, the standard procedure should be the notification of INTERPOL and, in the EU, Europol. This would enable these agencies to forward important information to other member states. It would also allow INTERPOL and Europol to build up a database for strategic analysis, to gain a broader insight into the problems at hand, and to direct future interventions more effectively on the basis of intelligence led choices.

## 7 REFERENCES

- 1 Particularly in EU border areas, the uniformed police is increasingly allowed to operate on foreign territory, for example in cases of imminent danger (Cf. Spapens, 2010a).
- 2 These are not to be confused with the legal framework of bilateral and multilateral environmental treaties aimed at specific courses of action to protect the environment, as those cannot be used as a basis for operational police cooperation in criminal investigations.
- 3 The official title is ‘Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.’ In 1998, the Schengen Acquis to the Treaty of Amsterdam extended the convention to all EU Member States. See Official Journal of the European Union L 239, 22 September 2000.
- 4 Official Journal of the European Union C 197, 12 July 2000.
- 5 See [www.coe.int](http://www.coe.int).
- 6 See [www.unodc.org](http://www.unodc.org).
- 7 See [www.thecommonwealth.org](http://www.thecommonwealth.org).
- 8 See [www.interpol.int](http://www.interpol.int).
- 9 An investigation of a group of drug traffickers, for example, may also render information that they maintain contacts with a criminal group involved in the smuggling of endangered animals, which the investigation team cannot address further at that time. Such remaining information often serves as the starting point for a new investigation case.
- 10 Article 46 of the Schengen Implementation Convention (1990) allows for spontaneous exchange of police information. The Council Framework Decision 2006/960/JHA, on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (the “Swedish Framework Decision”) recently extended Article 46 to intelligence.

## 8 BIBLIOGRAPHY

Elliot, L., ‘Combating Transnational Environmental Crime: Joined Up Thinking About Transnational Networks’ in Kangaspunta, K. and Haen Marshal, I. *Eco-Crime and Justice. Essays on Environmental Crime*, Turin, Unicri, 2009, p. 55 - 78.

Daele van, D., Spapens, T., Fijnaut, C. *De strafrechtelijke rechtshulpverlening van België, Duitsland en Frankrijk aan Nederland*, Antwerp/Oxford, Intersentia, 2008.

Daele van, D. and Geebergen van, B., *Criminaliteit en rechtshandhaving in de Euregio Maas-Rijn, Deel 2*, Antwerp/Oxford, Intersentia, 2007.

Faure, M. and Heine, G. *Criminal Enforcement of Environmental Law in the European Union*, The Hague, Kluwer Law International, 2005.

Fijnaut, C., Spapens, T. and Daele van, D., *De strafrechtelijke rechtshulpverlening van Nederland aan de Lidstaten van de Europese Unie*: Zeist, Kerckebosch, 2005.

INTERPOL, *Operation TRAM. Final report, Lyon*, I.C.P.O.-INTERPOL, 2011a.

INTERPOL, *Operation RAMP. Final report, Lyon*, I.C.P.O.-INTERPOL, 2011b.

Joutsen, M., 'International Instruments on Cooperation in Responding to Transnational Crime.' In: Reichel P., (ed.), *Handbook of Transnational Crime and Justice*, London, Sage Publications, 2005, p. 255 - 274.

Michalowski, R. and Bitten, K., 'Transnational Environmental Crime', in Reichel P., (ed.), *Handbook of Transnational Crime and Justice*, London, Sage Publications, 2005, p. 139 - 159.

Mostert, M., Raaijmakers, P. and Vreugdenhil, D., *Witboek Milieucriminaliteit. Wat er goed gaat in de opsporing van milieucriminaliteit*, Politie Nederland, Raad van Korpschefs, 2010.

Spapens, T. 'Joint Investigation Teams in the European Union: Article 13 JITs and the alternatives.' *European Journal of Crime, Criminal Law and Criminal Justice*, forthcoming, accepted for publication.

Spapens, T. 'Interaction Between Criminal Groups and Law Enforcement: The Case of Ecstasy in The Netherlands' *Global Crime*, Vol. 12, Issue 1, 2011, p. 19-40.

Spapens, T. 'Cross-border Public Order Policing in the Dutch Border Areas', *Journal of Police Studies*, 2010a, Volume 2010-3, p. 163 – 179.

Spapens, T. 'Cross-border cooperation in criminal investigations', in Botterill, D., Jones, T. (eds.), *Crime and tourism: key themes*, Oxford: Goodfellow Publishers, 2010b, p. 129 – 147.

Spapens, T. 'Police Cooperation in the Dutch Border Areas' in Fijnaut, C., Ouwerkerk, J. *The Future of Police and Judicial Cooperation in the European Union*, Leiden/Boston: Martinus Nijhoff Publishers, 2009, p. 73 – 102.

Spapens, T. 'Policing a European Border Region: The Case of the Meuse-Rhine Euroregion', in Guild, E., Geyer, F. (Eds.) *Security versus Justice, Police and Judicial Cooperation in the European Union*, Aldershot: Ashgate Publishing Ltd, 2008, p. 225 – 241.

Spapens, T. *Interactie tussen criminaliteit en opsporing. De gevolgen van opsporingsactiviteiten voor de organisatie en afscherming van XTC-productie en –handel in Nederland*, Antwerp/Oxford, Intersentia, 2006.

White, R. 'Transnational Environmental Harm and Eco-Global Criminology', in Giora Shoham, S., Knepper, P. and Kett, M. (eds.) *International Handbook of Criminology*, CRC Press, Boca Raton, 2010, p. 231 - 257.